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UNCLAS SECTION 01 OF 02 BUCHAREST 000017

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STATE DEPT FOR EUR/NCE - AARON JENSEN

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SUBJECT: ROMANIAN MOJ REQUEST FOR MUNAF HEARING FROM IRAQ

REF: A. 2006 BUCHAREST 1883

[1](#)B. 2006 BUCHAREST 19624

[1](#)1. (SBU) The Ministry of Justice sent Embassy Bucharest a request on December 29 for judicial assistance in connection with two cases involving Mohammad Munaf, held in custody in Iraq. This letter is the first received pursuant to reftel guidance establishing a single formal channel for requests for U.S. assistance in regard to the Munaf case.

[1](#)2. (SBU) In summary, the MOJ letter recognizes that Munaf is in Iraqi custody, but requests U.S. assistance to facilitate a videoconference hearing of Muhammad Munaf 1) regarding the GOR's terrorism charges against him and 2) as a witness in the GOR's criminal case against Omar Hayssam. If agreed, the MOJ would like to know the date of the hearing and the contact information for the U.S. official coordinating technical support. Lastly, the MOJ argues that it maintains jurisdiction over Munaf on the terrorism charges due to the nationality of the three Romanian journalists held hostage and the harm done to Romanian state interests. Per reftel guidance, Embassy Bucharest requests an interagency approved response to these questions, which it will then convey to the Romanian side in writing.

[1](#)3. (SBU) Begin Embassy translation of original Romanian text:

ROMANIA  
MINISTRY OF JUSTICE  
INTERNATIONAL AFFAIRS AND TREATIES DIRECTORATE

To: Embassy of the United States of America in  
Bucharest

CC: The Ministry of Foreign Affairs  
General Directorate for Global Affairs  
Near East and Africa Division

The Ministry of Justice presents its compliments to the Embassy of the United States of America in Bucharest and has the honor to communicate the following:

In the criminal cases filed as 6595/2/2006 and 33970/2/2005 with the Bucharest Court of Appeal, Criminal Section I, achieving justice is largely dependent on the way the Iraqi authorities solve the requests of the Romanian judicial authorities for judicial assistance -- namely the requests that U.S. and Iraqi citizen Mohammad Munaf and other Iraqi citizens are heard.

Because Mr. Mohamad Munaf has U.S. citizenship and because he is physically under the custody of U.S. troops of the Multinational Coalition Force in Iraq, the support of U.S. authorities is essential to finalize the request

for judicial assistance addressed by the Bucharest Court of Appeal to the Iraqi authorities to hear Munaf either via videoconference or by a regular rogatory commission.

The Ministry of Justice informs the honored Embassy that on November 14, 2006 the Iraqi Ministry of Justice expressed, verbally, its agreement to the hearing of Mr. Munaf by videoconference. Therefore, on November 23, 2006, with the support of the U.S. Embassy in Baghdad and of the U.S. Commander of the MNF-I, the video connection was established and a first round of the hearing took place. Due to procedural reasons, the hearing was postponed for December 14, 2006, when, unfortunately, the hearing could not take place, the U.S. Embassy in Baghdad informing our ministry that "the expressed accord of the Iraqi authorities is missing" (accord, which in our opinion, had been expressed, indeed only verbally, by the deputy minister of justice, Mr. Pusho Dezaye.)

The Romanian Ministry of Justice requests the honored embassy to continue to support before the competent U.S. authorities the request of the Romanian authorities in order to achieve justice in this complex case of terrorism. Because the Bucharest Court of Appeal has given a new term - February 15, 2007 - in the criminal case no. 6595/2/2006, the Embassy is kindly requested to communicate to this ministry, in due time, if the U.S. authorities agree to the hearing by videoconference of the U.S. and Iraqi citizen Muhammad Munaf, accused of initiating an association for terrorism purposes as well as of financially supporting this association, (art. 35, para 2, Law 535/2004) and complicity to terrorism (art. 26, Criminal Code; art. 32, para 1 and 2, Law 535/2004; art. 189 para 1 and 2 of the Penal Code) -- acts for which he was indicted by the General Prosecutor's Office, High Court of Cassation and

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Justice, Direction for Investigation of Organized Crime and Terrorism together with defendant Omar Hayssam. The honored embassy is also kindly asked to communicate the position of the U.S. authorities to the proposal of hearing Mohammad Munaf, also by videoconference, as a witness in criminal case no. 33970/2/2005 filed at the Bucharest Court of Appeal, Criminal Section I. In case of an affirmative answer, the embassy is kindly asked to communicate a date for the two hearings as well as the contact information for the U.S. officials who would help with the technical support.

To completely and correctly inform the Embassy, the Romanian Ministry of Justice would like to mention the following:

Starting in December 2005, the Romanian authorities sent to the Iraqi authorities 5 requests for judicial assistance in the criminal files of the Bucharest Court of Appeal regarding U.S. and Iraqi citizen Mohammad Munaf. These requests refer to the hearing, by a regular rogatory commission or by videoconference, of Muhammad Munaf and of six other persons: Al Qasir Salam, DOB 05/12/1971 in Baghdad, Al Salmani Omar Jassam, DOB 03/01/1970 in Baghdad, Al Slemani Abdel Jabbar, DOB 07/01/1956 in Baghdad, Al Amin Youssef, DOB 06/10/1971 in Baghdad, Al Giuburi Ibrahim, DOB 01/12/1969 in Baghdad and Samarai Hakim, DOB 07/01/1956 in Baghdad.

The hearing of Mr. Munaf is requested as a defendant in file no. 6595/2/2006 with the Bucharest Court of Appeal, Criminal Section I, and as a witness in file no. 33970/2/2005 with the same court. In file no. 6595/2/2006 Mohammad Munaf is on trial and in the other file Omar Hayssam, a Syrian citizen, is on trail, taking into consideration the splitting up of the two files due to procedural reasons.

As regards the trial of Mr. Munaf for the acts of terrorism

mentioned above, the Romanian Ministry of Justice would like to stress that Romania has directly expressed its intention to have this case judged within the Romanian justice system. Indeed, immediately after the acts were committed the General Prosecutor's Office associated with the High Court of Cassation and Justice, the Directorate for Investigation of Organized Crime and Terrorism, ordered the initiation of a criminal investigation of Muhammad Munaf for terrorism against three Romanian journalists.

It must be stressed that there was no moment when the Romanian authorities gave up jurisdiction over the acts of Muhammad Munaf, exercising its jurisdiction on the basis of the principles of international legal rights, the jurisdiction being justified by the harm done to Romanian state interests, which is derived from the Romanian nationality of the victims.

The Romanian Ministry of Justice sends to the Embassy of the United States of America in Bucharest its appreciation for support and its high regard.

Bucharest, December 29, 2006

End translation of text.

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